



House of Representatives

General Assembly

File No. 331

February Session, 2002

House Bill No. 5635

House of Representatives, April 4, 2002

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING PAYMENT BONDS FOR THE PROTECTION OF EMPLOYEES AND MATERIALMEN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 49-41 of the general statutes, as amended by
2 public act 01-21, is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2002*):

4 (a) Each contract exceeding fifty thousand dollars in amount for the
5 construction, alteration or repair of any public building or public work
6 of the state or of any subdivision thereof shall include a provision that
7 the person to perform the contract shall furnish to the state or the
8 subdivision on or before the award date, a bond in the amount of the
9 contract which shall be binding upon the award of the contract to that
10 person, with a surety or sureties satisfactory to the officer awarding
11 the contract, for the protection of persons supplying labor or materials
12 in the prosecution of the work provided for in the contract for the use

13 of each such person, provided no such bond shall be required to be
14 furnished (1) in relation to any general bid in which the total estimated
15 cost of labor and materials under the contract with respect to which
16 such general bid is submitted is less than fifty thousand dollars, (2) in
17 relation to any sub-bid in which the total estimated cost of labor and
18 materials under the contract with respect to which such sub-bid is
19 submitted is less than fifty thousand dollars, or (3) in relation to any
20 general bid or sub-bid submitted by a consultant, as defined in section
21 4b-55, as amended. Any such bond furnished shall have as principal
22 the name of the person awarded the contract.

23 (b) Nothing in this section or sections 49-41a to 49-43, inclusive,
24 shall be construed to limit the authority of any contracting officer to
25 require a performance bond or other security in addition to the bond
26 referred to in subsection (a) of this section, except that no such officer
27 shall require a performance bond in relation to any general bid in
28 which the total estimated cost of labor and materials under the contract
29 with respect to which such general bid is submitted is less than
30 twenty-five thousand dollars or in relation to any sub-bid in which the
31 total estimated cost of labor and materials under the contract with
32 respect to which such sub-bid is submitted is less than fifty thousand
33 dollars.

34 (c) No contract for the construction, alteration or repair of any
35 public building or public work of the state or of any subdivision
36 thereof that requires a person to supply the state or subdivision with a
37 bond may include a provision that requires the person to obtain the
38 bond from a specific surety, agent, broker or producer. No contracting
39 officer may require that a bond be obtained from a specific surety,
40 agent, broker or producer.

41 (d) Each governmental agency which enters into a contract under
42 this section and fails or neglects to obtain delivery from the contractor
43 of the bond required by this section shall, upon the demand of any
44 person who has not been paid by the contractor for labor or materials
45 supplied in the performance of the work under the contract, promptly

46 pay the person for such labor or materials. If a governmental agency
47 also fails to make such payment, the person shall have a right of action
48 against the governmental agency for such payment and the superior
49 court in any judicial district in which work under the contract was to
50 be performed shall have jurisdiction over the action. No such action
51 shall be brought more than one year after the furnishing of the labor or
52 material which is the subject of the action.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$	FY 04 \$
GF - Cost	Attorney General; Pub. Works, Dept.	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Effect	Municipalities	FY 03 \$	FY 04 \$
Cost	Various Municipalities	See Below	See Below

Explanation

The bill allows laborers and material providers on public building or public works projects to sue the state or municipalities if the following occurs: (1) a governmental entity fails to obtain a bond from the contractor involved, and (2) the contractor does not pay for labor and materials provided. Governmental entities must obtain such a bond from the contractor under current law, and, therefore, it is not anticipated that they would become liable for the payment of labor and materials if a contractor failed to pay for them. If the governmental entity failed to obtain the proper bond, however, it could be liable for significant costs.

OLR Bill Analysis

HB 5635

**AN ACT CONCERNING PAYMENT BONDS FOR THE PROTECTION
OF EMPLOYEES AND MATERIAL MEN****SUMMARY:**

This bill makes governmental agencies liable to laborers and material providers on public building or public works construction, alteration, or repair projects if (1) the agencies award a contract for the work but fail or neglect to get a required labor and material bond and (2) the contractor does not pay the laborer and material provider for work they provided to complete the project. The agencies' liability is limited to the amount the laborer and material provider should have been paid under the contract.

The agencies must promptly pay the laborer and material provider upon demand. If they fail to do so, the laborer and material provider may bring a cause of action for payment within one year after the labor or material was furnished in the superior court of the judicial district where the contract work was to be performed.

By law, agencies must obtain this bond before awarding contracts, other than consultant contracts, for the construction, alteration, or repair of any public building or public works that have a total cost and labor and material costs over \$50,000. Consultants are (1) planners, construction managers, or financial specialists; or (2) registered or licensed architects, professional engineers, landscape architects, land surveyors, accountants, interior designers, environmental professionals, or construction administrators.

EFFECTIVE DATE: October 1, 2002

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Report

Yea 19 Nay 0

